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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues Against:

Case No. 2013-191

13 **ARIEL CRIS BETITA MANIPULA**

14 Applicant for Registered Nurse License

STATEMENT OF ISSUES

Respondent.

15 Complainant alleges:

16 **PARTIES**

17 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Statement of Issues solely
18 in her official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
19 Department of Consumer Affairs.

20 2. On or about December 21, 2011, the Board received an application for a registered
21 nurse license from Ariel Cris Betita Manipula ("Respondent"). On or about December 20, 2011,
22 Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and
23 representations in the application. The Board denied the application on February 13, 2012.

24 **STATUTORY PROVISIONS**

25 3. Business and Professions Code ("Code") section 2736 provides, in pertinent part, that
26 the Board may deny a license when it finds that the applicant has committed any acts constituting
27 grounds for denial of licensure under section 480 of that Code.

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1 4. Code section 2761 states, in pertinent part:

2 The board may take disciplinary action against a certified or licensed
3 nurse or deny an application for a certificate or license for any of the following:

4 (a) Unprofessional conduct . . .

5 (f) Conviction of a felony or of any offense substantially related to the
6 qualifications, functions, and duties of a registered nurse, in which event the record of
7 the conviction shall be conclusive evidence thereof . . .

8 5. Code section 2762 states, in pertinent part:

9 In addition to other acts constituting unprofessional conduct within the
10 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a
11 person licensed under this chapter to do any of the following:

12 (a) Obtain or possess in violation of law, or prescribe, or except as
13 directed by a licensed physician and surgeon, dentist, or podiatrist, administer to
14 himself or herself, or furnish or administer to another, any controlled substance as
15 defined in Division 10 (commencing with Section 11000) of the Health and Safety
16 Code or any dangerous drug or dangerous device as defined in Section 4022.

17 (b) Use any controlled substance as defined in Division 10 (commencing
18 with Section 11000) of the Health and Safety Code, or any dangerous drug or
19 dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or
20 in a manner dangerous or injurious to himself or herself, any other person, or the
21 public or to the extent that such use impairs his or her ability to conduct with safety to
22 the public the practice authorized by his or her license.

23 (c) Be convicted of a criminal offense involving the prescription,
24 consumption, or self administration of any of the substances described in subdivisions
25 (a) and (b) of this section, or the possession of, or falsification of a record pertaining
26 to, the substances described in subdivision (a) of this section, in which event the
27 record of the conviction is conclusive evidence thereof . . .

28 6. Code section 2765 states:

 A plea or verdict of guilty or a conviction following a plea of nolo
 contendere made to a charge substantially related to the qualifications, functions and
 duties of a registered nurse is deemed to be a conviction within the meaning of this
 article. The board may order the license or certificate suspended or revoked, or may
 decline to issue a license or certificate, when the time for appeal has elapsed, or the
 judgment of conviction has been affirmed on appeal or when an order granting
 probation is made suspending the imposition of sentence, irrespective of a subsequent
 order under the provisions of Section 1203.4 of the Penal Code allowing such person
 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside
 the verdict of guilty, or dismissing the accusation, information or indictment.

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1 7. Code section 480 states, in pertinent part:

2 (a) A board may deny a license regulated by this code on the grounds that
3 the applicant has one of the following:

4 (1) Been convicted of a crime. A conviction within the meaning of this
5 section means a plea or verdict of guilty or a conviction following a plea of nolo
6 contendere. Any action that a board is permitted to take following the establishment
7 of a conviction may be taken when the time for appeal has elapsed, or the judgment
8 of conviction has been affirmed on appeal, or when an order granting probation is
9 made suspending the imposition of sentence, irrespective of a subsequent order under
10 the provisions of Section 1203.4 of the Penal Code.

11 (3)(A) Done any act that if done by a licentiate of the business or
12 profession in question, would be grounds for suspension or revocation of license.

13 (B) The board may deny a license pursuant to this subdivision only if the
14 crime or act is substantially related to the qualifications, functions, or duties of the
15 business or profession for which application is made . . .

16 **CONTROLLED SUBSTANCES**

17 8. "Marijuana" is a Schedule I controlled substance as designated by Health and Safety
18 Code section 11054, subdivision (d)(13).

19 9. "Methamphetamine" is a Schedule II controlled substance as designated by Health
20 and Safety Code section 11055, subdivision (d)(2).

21 **FIRST CAUSE FOR DENIAL**

22 **(Criminal Convictions)**

23 10. Respondent's application is subject to denial pursuant to Code sections 2736, 2761,
24 subdivision (f), and 480, subdivisions (a)(1), in that Respondent was convicted of crimes which
25 are substantially related to the qualifications, functions, and duties of a registered nurse, as
26 follows:

27 a. On or about October 28, 2002, in Yolo County Superior Court, Case No. 02-
28 1867, Respondent pled no contest to violating Health and Safety Code section 11366
29 (maintaining a place where drugs are located or found), a felony. Respondent's sentence
30 included, among other things, an order requiring Respondent to abstain from the use or
31 possession of illegal drugs or narcotics, including Marijuana.

32 (1) The underlying circumstances are: On or about March 20, 2002, agents
33 with the Yolo Narcotic Enforcement Team and University of California ("UC") Davis Police

1 Department officers served a search warrant at Respondent's dormitory room located in
2 Manzanita Hall at UC Davis, California. Their detailed search of Respondent's residence found
3 approximately 19.6 grams of Marijuana, packing materials, and drug smoking paraphernalia.

4 Respondent admitted to the agents and officers that he purchased, sold, and used Marijuana.
5 Respondent also admitted that he smoked Marijuana every day or every other day and used
6 approximately 5 to 6 grams of Marijuana per week.

7 b. On or about May 2, 2003, in Placer County Superior Court, Case No. 62-34702,
8 Respondent pled nolo contendere to violating Health and Safety Code section 11379, subdivision
9 (a) (transportation of a controlled substance), a felony.

10 (1) The underlying circumstances are: On or about March 18, 2003, a
11 Roseville Police Department ("RPD") officer conducted a traffic stop on Respondent's vehicle for
12 an illegal left turn. At the time, Respondent was a narcotics registrant and was on searchable
13 probation through 2005 in Yolo County. Respondent denied to the officers that he had illegal
14 contraband in the vehicle and consented to a search of the vehicle. The search resulted in
15 Respondent was found in possession of a total of 1.31 grams of Marijuana, 5.69 grams of
16 Methamphetamine, and drug smoking paraphernalia. Respondent admitted he possessed the
17 Marijuana but denied possession of the Methamphetamine.

18 **SECOND CAUSE FOR DENIAL**

19 **(Obtain, Possess, and/or Self-Administer Controlled Substance)**

20 11. Respondent's application is subject to denial pursuant to Code sections 2736, 2761,
21 subdivision (a), and 2762, subdivision (a), in that Respondent obtained, possessed, and/or self-
22 administered the controlled substance Marijuana without lawful authority therefor, as set forth in
23 paragraph 10.a.(1), above.

24 **THIRD CAUSE FOR DENIAL**

25 **(Use of a Controlled Substance to an Extent or in a Manner**

26 **Dangerous or Injurious to Oneself, Others, and/or the Public)**

27 12. Respondent's application is subject to denial pursuant to Code sections 2736, 2761,
28 subdivision (a), 2762, subdivision (b), and 480, subdivision (a)(3)(A), in that Respondent used the

1 controlled substance Marijuana to an extent or in a manner dangerous or injurious to himself,
2 others, and/or the public, as set forth in paragraph 10.a.(1), above.

3 **FOURTH CAUSE FOR DENIAL**

4 **(Conviction Related to the Possession of Controlled Substances)**

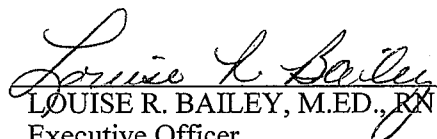
5 13. Respondent's application is subject to denial pursuant to Code sections 2736, 2761,
6 subdivision (a), 2762, subdivision (c), and 480, subdivision (a)(3)(A), in that on or about May 2,
7 2003, Respondent was convicted of a criminal offense involving possession of the controlled
8 substances Marijuana and Methamphetamine, as set forth in paragraph 10.(b), above.

9 **PRAYER**

10 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Board of Registered Nursing issue a decision:

- 12 1. Denying the application of Ariel Cris Betita Manipula for a registered nurse license;
13 2. Taking such other and further action as deemed necessary and proper.

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15 DATED: September 13, 2012


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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